

Message Text

UNCLASSIFIED

PAGE 01 MADRID 04322 01 OF 02 090811Z

13

ACTION TRSE-00

INFO OCT-01 EUR-25 ISO-00 FEA-02 SAM-01 SSO-00 NSCE-00

USIE-00 INRE-00 AGR-20 CEA-02 CIAE-00 COME-00 DODE-00

EB-11 FRB-02 H-03 INR-10 INT-08 L-03 LAB-06 NSAE-00

NSC-07 PA-04 RSC-01 AID-20 CIEP-02 SS-20 STR-08

TAR-02 PRS-01 SP-03 OMB-01 SWF-02 DRC-01 /166 W

----- 050849

O 090706Z JUL 74

FM AMEMBASSY MADRID

TO SECSTATE WASHDC IMMEDIATE 9392

UNCLAS SECTION 1 OF 2 MADRID 4322

DEPT PASS TREASURY FOR MESSRS. RICHARD SELF AND
WILLIAM BARREDA

E.O. 11652: N/A

TAGS: ETRD,SSP

SUBJECT: COUNTERVAILING DUTIES

REF: MADRID 4258

1. EMBASSY IS NOW IN RECEIPT OF MFA NOTE DATED JULY 3, 1974, WHICH IS TECHNICAL RESPONSE TO THE ISSUES MESSRS. SELF AND BARREDA IDENTIFIED AS PROBLEMS FOR TREASURY DURING THEIR VISIT.

2. WORKING TRANSLATION OF NOTE AS FOLLOWS:

QUOTE THE MINISTRY OF FOREIGN AFFAIRS PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA AND IN RELATION TO THE EMBASSY'S NOTE VERBALE #438, OF JUNE 19, 1974, ANNOUNCING THAT THE TREASURY DEPARTMENT OF THE UNITED STATES UNDERSTANDS THAT THE SPANISH FISCAL (TAX) REFUND ON EXPORTS OF SHOES AND CANNED OLIVES CONCEALS A SUBSIDY OF AROUND 3 PERCENT, AND ALSO IN RELATION TO THE MEETINGS AT

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 MADRID 04322 01 OF 02 090811Z

EXPERTS' LEVEL HELD ON JUNE 26 AND 27, 1974, IN MADRID,

TAKES PLEASURE IN MAKING SOME REMARKS REGARDING THE WHOLE SUBJECT AND, ESPECIALLY, REGARDING THE SPANISH POINTS OF VIEW IN RELATION TO THE DIFFERENCES OF OPINIONS RECORDED AT THE EXPERTS' LEVEL MEETINGS HELD ON THE ABOVE MENTIONED DATES.

QUOTE THE SPANISH DELEGATION UNDERSTOOD THAT THE DOUBTS OF THE U.S. DELEGATION REGARDING THE RATE APPLIED BY SAPIN ON THE TAX REFUND FOR EXPORTS OF SHOES AND BOTTLED OLIVES REFERRED TO FOUR QUESTIONS.

QUOTE 1. - INCLUSION IN THE RATE OF THE EFFECTS OF "PARAFISCAL" LEVIES AND FEES AND OF INDIRECT TAXES OF A MUNICIPAL NATURE.

QUOTE 2. - INCLUSION IN THE RATE OF THE I.G.T.E. (GENERAL COMPANY TURN-OVER TAX) AND SPECIAL TAXES ON SOME OF THE COST ELEMENTS (TRANSPORTATION, ENERGY, SERVICES, AND AMORTIZATION).

QUOTE 3. - NO DISTINCTION BETWEEN THE RATES FOR EXPORTS MADE BY MANUFACTURERS OR BY WHOLESALERS.

QUOTE 4. - LACK OF LIMITATION, IN THE BASE UTILIZED TO CALCULATE THE REFUND, BY THE SUM OF THE FOB VALUE OF THE EXPORTED MERCHANDISE AND OF THE REFUND COLLECTED.

QUOTE THE DOUBTS OF THE U.S. DELEGATION REGARDING POINTS 1 AND 2 WERE BASED ON A LIMITATIVE INTERPRETATION OF THE GATT'S RULES, CONSISTING IN THAT THEY ONLY ADMIT IN THE BORDER TAX READJUSTMENTS THOSE INDIRECT TAXES THAT ARE DIRECTLY LEVIED ON THE PRODUCT.

QUOTE THE SPANISH DELEGATION IS OF THE OPINION THAT THE GATT'S RULES ARE NOT IN OPPOSITION TO THE RE-ADJUSTMENT OF THE INDIRECT TAXES THAT ARE INDIRECTLY LEVIED UPON THE PRODUCT, ALTHOUGH IT IS TRUE THAT AMONGST THE MEMBER COUNTRIES NO UNANIMOUS INTERPRETATION OF THE MATTER HAS EVER BEEN REACHED. HOWEVER, THOSE COUNTRIES THAT HAVE AN INDIRECT TAXING SYSTEM BASED ON THE IMPOSITION OF THE ADDED VALUE TAX (A.V.T), COMPENSATE AND REFUND THE ANALOGOUS EFFECT OF THE TAXES WHICH ARE THE OBJECT OF THESE TWO QUESTIONS. THEREFORE, IT IS BELIEVED THAT THE NON-ACCEPTANCE OF TAX REFUNDS FOR SPANISH EXPORTS TO THE UNITED STATES, THE EFFECT OF THESE INDIRECT TAXES ("PARA-FISCAL" LEVIES AND FEES, TAXES BY LOCAL MUNICIPALITIES, THE I.G.T.E. (COMPANY TURN-OVER TAX) AND SPECIAL TAXES),

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 MADRID 04322 01 OF 02 090811Z

WOULD REPRESENT A DISCRIMINATION WITH RESPECT TO THE IMPORTS MADE IN THE UNITED STATES FROM OTHER COUNTRIES THAT WOULD HAVE A TAX ON THE VALUE ADDED, WHICH WOULD REALLY BE CONTRARY TO THE PRINCIPLE OF NEUTRALITY MAINTAINED BY THE GATT REGULATIONS.

QUOTE WITH REGARD TO POINT 3, THE SPANISH DELEGATION RECOGNIZES THAT OUR REGULATIONS DO NOT MAKE ANY DISTINCTION WHEN CALCULATING THE TAX REFUNDS, AS TO WHETHER EXPORTS HAVE

BEEN MADE BY A MERCHANT OR BY A MANUFACTURER.

QUOTE THIS IS DUE TO THE FACT THAT AT THE BEGINNING IT WAS EXPECTED THAT THE LEVY WOULD BE THE SAME IN BOTH INSTANCES.

QUOTE LATER ON, AND IN SPITE OF THE FACT THAT THE TAP IMPOSED ON BOTH CASES IS SLIGHTLY DIFFERENT, THE SPANISH ADMINISTRATION PREFERRED NOT TO DISTINGUISH THE REFUND RATES FOR THE FOLLOWING REASONS:

QUOTE A) THE DISTINCTION OF THE REFUND RATES, IF APPLIED TO EXPORTERS, MANUFACTURERS OR BUSINESSMEN, WOULD ENTAIL FOR THE SPANISH ADMINISTRATION A SERIOUS TECHNICAL DIFFICULTY, DUE TO THE LIMITATION OF THE COMPUTERS USED UNTIL NOW FOR THE MECHANIZATION OF THE LIQUIDATIONS.

QUOTE ON THE OTHER HAND, IN THE TAX READJUSTMENTS OF "CASCADE TAXES" THE USE OF AVERAGES IS ACCEPTED, AND THE COMPOSITION OF THE EXPORT SECTORS -- BETWEEN MANUFACTURERS AND BUSINESSMEN-- WHICH IS BASIC TO ARRIVE AT THESE AVERAGES, DIFFERS ACCORDING TO THE ACTIVITIES AND VARIES ACCORDING TO CIRCUMSTANCES.

QUOTE B) FINALLY, THE DIFFERENCE RESULTING FROM THE AVERAGES WOULD HAVE TO BE REDUCED, AS A CONSEQUENCE OF THE SUBSIDIARY EFFECTS NOT INCLUDED IN THE STUDIES COVERING THE PREPARATION OF THE RESPECTIVE RATES.

QUOTE ON THE ONE HAND, IT SHOULD BE CONSIDERED THAT THE RETURN OF TAXES RESULTING FROM THE TAP REFUND ON EXPORTS, HAS AN UNAVOIDABLE DELAY WITH RESPECT TO THE DIFFERENT POINTS IN WHICH THE INDIRECT TAXES HAVE BEEN REQUIRED (THE CASCADE EFFECT) ALONG ALL THE PRODUCTION PROCESS. THEREFORE, THE SPANISH GOVERNMENT SHOULD COMPENSATE THIS BURDEN WITH WHICH IT LEVIES THE SPANISH PRODUCT, IN RELATION TO THE DELAY (SOME SIX MONTHS), TO THE INTEREST RATE. THE MINIMUM IS 6 PERCENT) AND TO THE RATE LEVEL OF THE REFUND.

QUOTE AND ON THE OTHER HAND, WE WOULD HAVE TO CONSIDER UNCLASSIFIED

UNCLASSIFIED

PAGE 04 MADRID 04322 01 OF 02 090811Z

THE EFFECT OF THE INDIRECT TAX (I.G.T.E.) THAT LEVIES THE TRANSPORT AND THE INSURANCE REQUIRED TO MOVE THE MERCHANDISE IN THE UNITED STATES, ACCORDING TO THE MEANS UTILIZED.

QUOTE LASTLY, WITH RESPECT TO POINT 4, THE U.S. DELEGATION IS WORRIED BECAUSE WHEN THE BASIS FOR THE EXPORT TAX REFUND IS DEFINED IN THE SPANISH LEGISLATION BY THE FOB VALUE, INCREASED BY THE CUSTOMS DUTIES, WE MAY BE USING A HIGHER BASIS WHICH THAT DELEGATION CONSIDERS AS CORRECT: FOB VALUE, INCREASED BY THE TAX REFUND ON EXPORTS.

QUOTE THE SPANISH DELEGATION POINTS OUT IN RELATION TO THIS DIFFICULTY THAT, ALTHOUGH IT IS TRUE THAT THE BASIS FOR THE EXPORT TAX REFUND IS THE FOB VALUE INCREASED BY THE CUSTOMS DUTIES, IT NEVER UTILIZES A BASIS HIGHER THAN THE VALUE THAT THE MERCHANDISE EXPORTED WOULD HAVE IN THE DOMESTIC MARKET. THEREFORE, WHEN THIS DOMESTIC VALUE IS

SMALLER THAN THE FOB VALUE INCREASED BY THE CUSTOMS DUTIES, THE FORMER DOMESTIC VALUE IS THE ONE USED AS THE BASIS TO CALCULATE THE TAX REFUND. AND THIS DOMESTIC VALUE, IN A NORMAL INTERNATIONAL MARKET TENDS TO BE EQUIVALENT TO THE SUM OF THE FOB VALUE AND THAT OF THE TAX REFUND. THEREFORE, WE REACH THE CONCLUSION THAT THE LOGICAL REQUIREMENT OF THE U.S. DELEGATION IS BEING COMPLIED WITH, IN PRACTICE, BY THE SPANISH ADMINISTRATION.

UNCLASSIFIED

NNN

UNCLASSIFIED

PAGE 01 MADRID 04322 02 OF 02 090809Z

13

ACTION TRSE-00

INFO OCT-01 EUR-25 ISO-00 FEA-02 SAM-01 SSO-00 NSCE-00

USIE-00 INRE-00 AGR-20 CEA-02 CIAE-00 COME-00 DODE-00

EB-11 FRB-02 H-03 INR-10 INT-08 L-03 LAB-06 NSAE-00

NSC-07 PA-04 RSC-01 AID-20 CIEP-02 SS-20 STR-08

TAR-02 PRS-01 SP-03 OMB-01 SWF-02 DRC-01 /166 W

----- 050844

O 090706Z JUL 74

FM AMEMBASSY MADRID

TO SECSTATE WASHDC IMMEDIATE 9393

UNCLAS SECTION 2 OF 2 MADRID 4322

DEPT PASS TREASURY FOR MESSRS. RICHARD SELF AND
WILLIAM BARREDA

QUOTE IN THE LIGHT OF THE NEW EXPLANATION SUBMITTED BY THE SPANISH TECHNICIANS AT THE ABOVE MENTIONED MEETINGS, AND OF THOSE WHICH IN THE PAST WERE FURNISHED TO THE TECHNICAL SERVICES OF THE TREASURY DEPARTMENT, THE SPANISH GOVERNMENT HOPES THAT THE U.S. AUTHORITIES WILL TAKE NOTE OF THE EXACTNESS AND THE LEGALITY WITH WHICH THE SPANISH AUTHORITIES USE THE TAX REFUND SYSTEM AND, IN CONSEQUENCE, WILL GIVE UP INITIATING A PUBLIC PROCESS FOR THE STUDY OF AN EVENTUAL APPLICATION OF COMPENSATORY DUTIES FOR IMPORTS INTO THE UNITED STATES OF SPANISH SHOES AND BOTTLED OLIVES.

QUOTE THE MINISTRY OF FOREIGN AFFAIRS AVAILS ITSELF

OF THIS OPPORTUNITY TO REITERATE TO THE EMBASSY OF THE
UNITED STATES OF AMERICA THE ASSURANCE OF ITS HIGHEST
CONSIDERATION. UNQUOTE

3. THIS IS NOT THE NOTE OF PROTEST EMBASSY WAS LED TO EXPECT
IN THE CONVERSATIONS REPORTED REFTEL. NOTE, HOWEVER, DOES
INDICATE EXPECTATION US WILL DROP COUNTERVAILING DUTY
ACTION BASED UPON THIS TECHNICAL RESPONSE. SINCE NO
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 MADRID 04322 02 OF 02 090809Z

REFERENCE MADE TO REDUCING REBATE, NOR DOES NOTE CONTAIN
REQUEST FOR ADDITIONAL CONSULTATIONS ON ISSUE, EMBASSY ASSUMES
GOS HAS DECIDED UPON MEASURED RESPONSE TO NEW US ACTIONS
CONTESTING ISSUE AT EACH PROCEDURAL STEP.
RIVERO

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DIPLOMATIC NOTES, COUNTERVAILING DUTIES, SHOES, OLIVES, TAX RELIEF, LEVIES
Control Number: n/a
Copy: SINGLE
Draft Date: 09 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974MADRID04322
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740181-1050
From: MADRID
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740765/aaaacdvs.tel
Line Count: 242
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION TRSE
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: MADRID 4258
Review Action: RELEASED, APPROVED
Review Authority: boyleja
Review Comment: n/a
Review Content Flags:
Review Date: 03 OCT 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 OCT 2002 by ThomasVJ>; APPROVED <15 JAN 2003 by boyleja>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COUNTERVAILING DUTIES
TAGS: ETRD, SP
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005